IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 302 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RASIKLAL M RAVAL - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR HB SINGH ON BEHFLF OF
MR KB PUJARA for Petitioner(s) : 1, 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6, 1.2.7,1.2.8
MR DIPEN DESAI AGP FOR STATE
RULE SERVED for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 19/06/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India, the petitioners

have challenged the legality and validity of the order passed by the Deputy Collector, Modasa dtd.28/2/1993, by which the lands in question are forfeited to the State Government in exercise of the powers under sec.65 of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as “the Act” for convenience), by holding that the lands in question remained uncultivated for the period between 1983-84 and 1987-88 i.e. for six years.

2.Mr.HB Singh, learned advocate appearing on behalf of Mr.KB Pujara, learned advocate for the petitioners while relying upon sec.65 f the Act as well as judgment and order passed by this Court, typed copy of which is produced at Annexure-D, has submitted that the Deputy Collector has no power to confiscate the lands in question and the only power which are given to the Deputy Collector and/or State Government is to assume the management if

ultimately it is found that the land is kept uncultivated for more than 3 (three) years. He has further submitted that even on merits also, the impugned decision of the Deputy Collector is erroneous inasmuch as even there was in fact entry in the revenue record showing cultivation.

3.Mr.Dipen Desai, learned AGP appearing on behalf of the State has submitted that the impugned order has been passed after following due procedure and giving show cause notice upon the petitioner and as it was found that for six years the lands in question were kept uncultivated and therefore, the impugned order passed by the Deputy Collector, Modasa is just, legal and in accordance with law.

4.It is not in dispute that the Deputy Collector has power under sec.65 of the Act and so far as sec.65 of the Act is concerned, it gives to the

State Government to assume the management of the lands in question upto maximum period of 10 years, if it is found that the lands in question is kept uncultivated for more that three years. Therefore, the power of confiscation are not vested in the Deputy Collector / State Government. Under the circumstances, the impugned order passed by the Deputy Collector, Modasa dtd.28/2/1993 in Ganot/Sec.65/Case No.1 of 1993 is required to be quashed and set aside and the same is hereby quashed and set aside. Rule is made absolute with no order as to costs.

(M.R.SHAH,J.)

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